

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

|                       |   |                           |
|-----------------------|---|---------------------------|
| ANTONIO ELLISON,      | ) | Case No.: 3:05 CV 967     |
|                       | ) |                           |
| Petitioner            | ) | JUDGE SOLOMON OLIVER, JR. |
|                       | ) |                           |
| v.                    | ) |                           |
|                       | ) |                           |
| ROB JEFFRIES, WARDEN, | ) |                           |
|                       | ) |                           |
| Respondent            | ) | <u>ORDER</u>              |

On April 14, 2005, Petitioner Antonio Ellison (hereinafter, “Ellison” or “Petitioner”) filed a Petition for Writ of Habeas Corpus (ECF No. 1) pursuant to 28 U.S.C. § 2254, challenging the constitutionality of his state court bench trial conviction for one count of trafficking in drugs and one count of possession of drugs. Petitioner argues that his petition should be granted on two grounds: (1) that the state denied him due process by failing to comply with Ohio law in arranging the “reverse buy” drug transaction for which he was convicted; and (2) that he was denied the effective assistance of counsel. Respondent Rob Jeffries filed a Return of Writ on March 3, 2006. (ECF No. 7.) Ellison did not file a traverse.

This court referred the case to Magistrate Judge William H. Baughman, Jr. for preparation of a Report and Recommendation. The Magistrate Judge submitted his Report and Recommendation on March 16, 2007, recommending that Ellison’s Petition for Habeas Corpus under 28 U.S.C. § 2254

be dismissed as to ground one and denied as to ground two. (ECF No.11.) The Magistrate Judge found that Petitioner had failed to exhaust his first claim for relief and therefore, it should be dismissed. (R&R 9.) In regard to Petitioner's second claim for relief based on ineffective assistance of counsel, the Magistrate Judge concluded that the state court's application of *Strickland v. Washington*, 466 U.S. 688 (1984) was not unreasonable. Consequently, the Magistrate Judge recommended that Petitioner's second ground for relief be denied. (R&R 13.)

As of the date of this Order, Petitioner has not filed objections to the Report and Recommendation. By failing to do so, he has waived the right to appeal the Magistrate Judge's recommendation. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).

The court finds, after careful review of the Magistrate Judge's Report and Recommendation and all other relevant documents, that the Magistrate Judge's conclusions are fully supported by the record and controlling case law. Accordingly, the court adopts as its own the Magistrate Judge's Report and Recommendation. (ECF No. 11.) Ellison's Petition for Writ of Habeas Corpus is hereby dismissed as to ground one and denied as to ground two. The court further certifies that pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could not be taken in good faith,

and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.

/s/SOLOMON OLIVER, JR.  
UNITED STATES DISTRICT JUDGE

May 31, 2007